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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/755,779	01/12/2004	Barnet Liberman	4019-42	1971
27799	7590	11/15/2006	EXAMINER	
COHEN, PONTANI, LIEBERMAN & PAVANE 551 FIFTH AVENUE SUITE 1210 NEW YORK, NY 10176			THAKUR, VIREN A	
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 11/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/755,779	LIBERMAN, BARNET	
	Examiner	Art Unit	
	Viren Thakur	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>1/12/2004</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: package (1) on page 8, paragraph 0029 of the specification; reinforcement member (30), on page 8, paragraph 0031 of the specification.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The use of the trademark "TruFresh®" has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Objections

3. Claim 25 is objected to because it includes the following reference characters which are not enclosed within parentheses: "Figure 9."

Reference characters corresponding to elements recited in the detailed description of the drawings and used in conjunction with the recitation of the same element or group of elements in the claims should be enclosed within parentheses so as to avoid confusion with other numbers or characters which may appear in the claims. See MPEP § 608.01(m).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 11, 12, 14-20, 22-28 and 30-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Liberman (US 20020106443). Liberman discloses a method for freezing a meat product comprising placing a meat product on a presentation board wherein said presentation board comprises multiple holes to facilitate heat transfer between the meat product and said cooling brine; introducing said presentation board together with said meat product into a bag; vacuum sealing said bag after said meat product and said presentation board is introduced into said bag; immersing said sealed bag into said cooled brine for freezing said meat products (Paragraph 0033). Liberman further discloses wherein said presentation board is mesh (Paragraph 0033). A mesh presentation board comprises a plurality of holes and therefore is considered a presentation board comprising multiple holes, as recited in instant claim 11. Liberman further discloses wherein said meat product is fish (Paragraph 0014); wherein said meat product is frozen in said cooled brine containing at least about 0.005% by weight of a cruciferous oil. Liberman discloses using cruciferous oil at less than 1%

(Paragraph 023) and thus includes all percentages between 0 to 1 percent. Thus including 0.005% and 0.018%. Liberman discloses the cruciferous oil to be rapeseed oil (Paragraph 0015) and wherein the temperature of said cooled brine is between -22 and -43.6°F (Paragraph 0029), which is between the claimed range of -22 and -46°F. Since -22 to -43.6°F encompass the range of between -37 and -41°F, this further limiting range is intrinsically incorporated into the broader range.

6. Claims 27-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Liberman et al. (US 5807598). Liberman discloses a method for freezing a meat product (Column 1, Lines 36-59) comprising placing a meat product (Column 2, Lines 16-19) on a presentation board (Figure 3, Item 26), wherein said presentation board is in the form and shape of a logo (Column 3, Lines 43-48). Shaping the presentation board into the shape of an object is interpreted as shaping said product into the shape of a logo; since a logo can take the form of any form and shape. Liberman further discloses introducing said presentation board together with said meat product into a bag (Column 3, Line 66 to Column 4, Lines 1-2); vacuum sealing said bag after said meat product and said presentation board is introduced into said bag (Column 4, Lines 2-5); immersing said sealed bag into said cooled brine for freezing said meat product (Column 4, Lines 8-11). Liberman further discloses wherein said meat product is fish and further sliced salmon (Column 5, Lines 65-67). Since the salmon is from trims,

said meat is sliced. Liberman further discloses wherein said meat product is frozen in said cooled brine containing at least about 0.005% by weight of cruciferous oil and wherein said cooled brine contains from about 0.005% to about 0.018% by weight of cruciferous oil (Column 3, Lines 7-12). Said cruciferous oil is disclosed to be rapeseed oil (Column 3, Lines 10-12) and wherein the temperature of said cooled brine is between -22 and -46°F and wherein the temperature of said cooled brine is between -37 and -41°F (Column 3, Lines 17-19).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:
 1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
9. Claims 13, 21, 29 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liberman (US 20020106443) in view of Liberman et al. (US 5807598). With regard to claims 13, 21 and 29, Liberman 20020106443 discloses as cited above. Liberman 20020106443 is silent in teaching wherein said fish is sliced salmon. Liberman et al. '598 discloses wherein said fish is salmon trims (Column 5, Lines 65-67). Therefore, Liberman et al. '598 teach to one having ordinary skill in the art that the type of fish used in the freezing process can be sliced salmon.

With regard to claim 35, Liberman et al. '598 disclose that the mold for said fish meat may be in the shape of a fish fillet or in the shape of a steak or hamburger patty if the meat is beef (Column 3, Lines 43-48). Therefore, Liberman et al. '598 provide motivation to one having ordinary skill in the art that the mold can be shaped into any desirable figure. Providing the shape of the meat into the TRUFRESH® logo would not provide a patentable distinction between the current invention and the prior art.

10. Claims 1 and 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liberman (US 20020106443) in view of Christopher (US 3411433). Liberman discloses a method for freezing a meat product in cooled brine, as cited above. Liberman further discloses using a presentation board comprised of mesh (Paragraph 0033) so that the entire surface of the product can be exposed

to the brine. The board of Liberman comprises two opposite surfaces. Since the plastic mesh comprises holes it is obvious that a hole is present in the center of said presentation board. Liberman is silent in teaching wherein said hole is substantially covered by a heat conducting foil placed on a surface of said presentation board.

Christopher teaches holes in a container (Figure 4) for holding and displaying a food product (Figure 4, Item 10b, 10a, 10c) therein; wherein said container for displaying said food product comprises holes (Figure 5, Item 14a) used for allowing transfer of heat to said food product. Christopher uses an outer aluminum foil layer (Figure 4, Item 16) that covers an inner perforate aluminum foil layer (Figure 4, Item 14). Both foil layers provide heat conduction from underneath. The perforate aluminum foil layer allows the heat to travel upward through the food product, versus along the sides of the foil, thus provides a more completely baked product (Column 1, Line 35 to Column 2, Line 9). Nevertheless, it is obvious to one having ordinary skill in the art that aluminum is an effective conductor of heat. Thus, Christopher provides the broad teachings of using both aluminum and a means for allowing a vertical movement of heat through a food product for the purpose of better and more efficient transfer of heat. The base aluminum layer provides the conduction of heat to assist in the transfer of heat within the perforations. Therefore, it would have been obvious to one having ordinary skill in the art to apply the teachings of Christopher to the holed presentation board of Liberman for the purpose of providing conducting

layer of aluminum foil that would assist in removing the heat from within the food product. Such a modification would provide a more efficient means for removing the heat and thus freezing said food product.

With regard to claims 6 and 7, Liberman discloses wherein said meat product are frozen in said cooled brine containing at least about 0.005% by weight of cruciferous oil. Liberman discloses using cruciferous oil at less than 1% (Paragraph 023) and thus includes all percentages between 0 to 1 percent, thus including 0.005% and 0.018%.

With regard to claim 8, Liberman discloses the cruciferous oil to be rapeseed oil (Paragraph 0015).

With regard to claims 9 and 10, Liberman discloses wherein the temperature of said cooled brine is between -22 and -43.6°F (Paragraph 0029), which is between the claimed range of -22 and -46°F. Since -22 to -43.6°F encompass the range of between -37 and -41°F, this further limiting range is intrinsically incorporated into the broader range.

11. Claims 1-4 and 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liberman (US 20020106443) in view of Mead (US 2507862) and Morrison (US 2807548).

Liberman further discloses using a presentation board comprised of mesh (Paragraph 0033) so that the entire surface of the product can be exposed to the brine. The board of Liberman comprises two opposite surfaces. Since the

plastic mesh comprises holes it is obvious that a hole is present in the center of said presentation board. However, Liberman is silent in teaching wherein said hole is substantially covered by a heat conducting foil placed on a surface of said presentation board and wherein a second foil is placed on the other surface of said presentation board

Morrison discloses a method for packaging food product by wrapping said food product within said package using metallic foil (Column 2, Lines 10-11) and wherein said wrapping is aluminum foil (Column 3, Lines 15-18). Upon wrapping with foil, the food containing package of Morrison can then be put into a freezing bath, for freezing the contents thereof and then shipped for retail sale (Column 2, Lines 40-48).

Mead discloses a board (Figure 1) used for freezing foodstuffs comprising two surfaces and comprising a hole at the center of the presentation board (Figure 1, Not labeled – see hole in center of Item 1), and wherein both surfaces of said presentation board are comprised of aluminum (Column 1, Line 57 to Column 2, Line 4). Mead teaches the use of aluminum for the purpose of removing heat from the food product for quick freezing of said foodstuff (Column 2, Lines 5-14, and Lines 24-37).

With regard to claims 1 and 2, similar to Mead's aluminum sheet, foil is well known to be comprised of aluminum, and aluminum is well known to be used for conducting heat away from the food product to be frozen. Irrespective of whether foil is used, Mead provides the motivation for using aluminum layers on

two opposite surfaces of a freezing board having a center hole, for drawing heat away from the interior and exterior of the foodstuff, and thus providing a more effective freezing process. The teachings of Morrison provide evidence that wrapping said food containing package with foil provides the package with heat conduction for immersion freezing. Since Morrison teaches wrapping said package with foil, it is obvious to one having ordinary skill in the art that foil wrapping is applied to at least two surfaces of the package. The combined teachings of Mead and Morrison suggest to one having ordinary skill in the art at the time the invention was made to provide foil wrapping for the hole in the presentation board of Liberman for the purpose of providing a more efficient freezing process that would draw heat away from within the food product and from within the package.

With regard to claim 3, providing a reinforcing member for supporting said meat product placed on said hole would have been obvious, since depending on the size and type of meat to be frozen and the strength of the foil used for covering the hole, support would be necessary to prevent the meat from rupturing the foil and falling through the hole.

With regard to claim 4, Liberman discloses wherein the meat product is fish (Paragraph 0014).

With regard to claims 6-10, please refer to the discussion above, in paragraph 10.

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12. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Liberman (US 20020106443) in view of Mead (US 2507862) and Morrison (US 2807548) as applied to claims 1-4 and 6-10 above, and in further view of Liberman et al. (US 5807598).

Liberman in view of Mead and Morrison do not disclose wherein said fish is sliced salmon.

Liberman et al. disclose using trims of salmon to mold a meat product using a cooled brine freezing method.

Therefore, the teachings of Liberman et al. suggest to one having ordinary skill in the art that any type of fish, such as sliced salmon, can be placed in a container for freezing.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 3032249 discloses a container that can be frozen comprising a hole wherein both surfaces of the hole are covered using aluminum foil. US 2722111 discloses freezing a container comprising a hole wherein said hole is covered using a film. US 4861632 discloses a container comprising an aluminum foil outer layer and an inner layer comprising holes that are covered by said aluminum foil. US 4394410 discloses a board for placing a food product wherein said board comprises aluminum foil and wherein said foil covers

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apertures. US 3314413 discloses holes covered on both sides using aluminum foil. US 0491977 discloses an exterior metal board comprising a section having holes that is covered by said exterior board. US 20020012724 A1 discloses freezing tuna using an ice brine chill. US 2240245 teaches freezing a product in a brine solution. US 3576650 discloses packaging foodstuffs in a package comprised of aluminum and wherein said package is immersed into liquid nitrogen for freezing. US 5520004 discloses a freezing technique for food products consisting of re-circulating refrigerants such as brine through channeled plates. US 3934789 discloses a tray comprising holes used for freezing meat products

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viren Thakur whose telephone number is (571)-272-6694. The examiner can normally be reached on Monday through Friday from 8:00 am - 4:30 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571)272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Viren Thakur
Examiner
Art Unit: 1761



KEITH HENDRICKS
PRIMARY EXAMINER